

**INTERLOCAL AGREEMENT
BETWEEN THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
AND
CITY OF AUSTIN
FOR PARTICIPATION IN THE LAW ENFORCEMENT ANALYSIS PORTAL
(LEAP)**

This Agreement is by and among the City of Austin (the City) and the North Central Texas Council of Governments (NCTCOG).

RECITALS

Whereas, the LEAP project was approved by the Executive Board of NCTCOG on December 15, 2005. Subsequently, the LEAP Advisory Committee, composed of eleven law enforcement executives from the NCTCOG region, was approved by the Executive Board of NCTCOG on April 27, 2006. The purpose of the Advisory Committee is to review, modify and recommend for approval the Manual of Administrative and Operational Guidelines (MAOG) and other documents, as appropriate, and to network with the Texas Department of Public Safety Records Section for sharing of criminal Records Management System data, and any other data deemed appropriate by the parties.

Whereas, NCTCOG created LEAP as a cached repository of criminal records management system data and other pertinent criminal justice data to be shared and analyzed among other contributing public safety agencies.

Whereas, the purpose of the LEAP project is multi fold:

- Officer Safety – provide a mechanism for patrol officers to query multiple agency databases cached in a secure LEAP database, to receive focused information prior to making contact, in table form, about a vehicle, plate, or location, when those elements have been involved in weapons, assaultive, drug or gang activity.
- Crime and Link Analysis – queries against the LEAP data cache will provide responses in summary table format, report format, or geospatially on a road map. Relationships between individuals, locations, and property are shown geospatially in a Link Chart assisting investigators in “connecting the dots.”
- Additional optional hosted software tools to complement the effectiveness and efficiency of jurisdictions that request services, such as a hosted RMS, which allows agencies access to hosted services at affordable prices by subscription rather than capital expenditure.

Whereas, this Agreement establishes permissions and guidelines for the use of Records Management System (RMS), Jail Management System (JMS), and other

Criminal Justice data the parties agree to share with other law enforcement and public safety agencies to include but not limited to:

- Local government jurisdictions in Texas and other secure information sharing systems in other states that wish to participate in LEAP,
- State agencies in Texas and other states that wish to participate in LEAP,
- Federal agency units based in Texas and their specialized field units, and other agency units outside Texas who wish to participate in LEAP.

Whereas, this Agreement is authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. Each party's monetary obligations, if any, are for the performance of governmental functions or services and are payable only from the current revenues appropriated and available for the performance of those functions or services.

AGREEMENT

Section 1. Purpose

This Agreement is to permit the City to participate in the LEAP project.

Section 2. NCTCOG's Duties and Rights.

- 2.1 NCTCOG will provide the City with technical assistance for the extraction and submission of relevant data from the City's automated systems to the secure LEAP Data Center if required by the contributing agency.
- 2.2 NCTCOG will control and analyze access by authorized users through a Gateway developed by a private security company licensed in the state of Texas. The LEAP data center will be secured consistent with FBI-CJIS guidelines.
- 2.3 NCTCOG will ensure that the security of authorized users is analyzed by a private security company licensed in the state of Texas. The security company's analysis will report any unusual activity to the law enforcement agency holding the subscription for that user. Follow up on this report will be the responsibility of that agency, consistent with the agency's internal policies, FBI-CJIS guidelines, Code Of Federal Regulations, Title 28--Judicial Administration, chapter I--Department of Justice, Part 20--Criminal Justice Information Systems, and Texas Government Code § 411.083 Dissemination of Criminal History Record Information.
- 2.4 NCTCOG shall have the authority to inspect and audit the records and operation of the City to determine compliance with this Agreement, LEAP policy, procedures, and all applicable state and federal laws.

- 2.5 NCTCOG reserves the right to immediately suspend service to the City when NCTCOG determines that this agreement or any applicable state or federal law, rule, or regulation has been violated by the City or an employee of the City. NCTCOG may reinstate the service upon receipt of satisfactory assurances that such violations have been corrected and measures have been taken to prevent future violations by the City.
- 2.6 NCTCOG will provide City with a telephone number and e-mail address that are to be used for reporting system malfunctions. NCTCOG will also provide the response time criteria for resolving system malfunctions.
- 2.7 With execution of this Agreement, NCTCOG licenses the City to have 100 user access licenses to LEAP.

Section 3. City's Duties and Rights.

- 3.1 The City retains sole ownership of and sole responsibility for the information it contributes, including but not limited to the accuracy of the information.
- 3.2 The City shall submit its law enforcement Records Management System (RMS) data and other criminal justice data to LEAP as agreed by the NCTCOG LEAP Advisory Committee and the City. The City will follow the LEAP "MAOG" for the submission, query, crime and link analysis and all other uses of contributing agencies shared information.
- 3.3 LEAP is a law enforcement, officer safety, crime, and link analysis tool, and is not an intelligence analysis tool. The city shall ensure that data remains law enforcement sensitive and will not insert United States Government Classified Information (as described in Presidential Executive Order 13526) into the LEAP Data Cache.
- 3.4 The City may require that any NCTCOG staff or contractor who must have access to the City's networks or systems pass the City of Austin Criminal Background Investigation (CBI) check. This CBI is a finger print-based national crime records background check. The City will perform the CBI check at no cost to NCTCOG or its contractors.

Section 4. Agreement Term

This Agreement shall become effective on the date executed by all parties and shall remain in effect until October 31, 2013. Following this initial term, the Agreement shall automatically renew annually, unless terminated earlier in accordance with Section 5 of this Agreement.

Section 5. Termination

- 5.1 Either Party may terminate this Agreement upon thirty (90) calendar days' prior written notice to the other Party.
- 5.2 Either Party shall have the right to terminate this Agreement during any term for the other Party's failure to follow the terms and conditions of this Agreement. The terminating Party must deliver written notice to the Party alleged to be in default via certified mail. The notice shall be effective within thirty (30) days, unless otherwise specified, after the date of the receipt of such notice. During this time period, the Party alleged to be in default may cure the event of default or provide evidence sufficient to prove to the other Party's reasonable satisfaction that such default does not exist or will be cured in a time satisfactory to the Party alleging the default.

Section 6. Limitation of Liability and Governmental Immunity

Each party to this agreement agrees that it shall have no liability whatsoever for the actions and/or omissions of the other party's employees, officers, or agents, regardless of where the individual's actions and/or omissions occurred. Each party is solely responsible for the actions and/or omissions of its employees, officers, and agents; however, such responsibility is only to the extent required by Texas law. Where injury or property damage results from the joint or concurring acts and/or omissions of the parties, any liability shall be shared by each party in accordance with the applicable Texas law, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the parties hereto and not for the benefit of any person or entity not a party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.

Section 7. Miscellaneous Provisions

Implementation Plan. NCTCOG and the City project staff will mutually develop an implementation plan that includes end user training, technical specifications, testing and verification of data; testing of data encryption, definition and testing of encrypted file transfer process, documentation of steps taken; roles and responsibilities during implementation and during operations. This implementation plan will also include milestones and completion dates for those milestones.

Quality of Work. NCTCOG and the City agree that work performed for this implementation and support of this effort shall be done in a good and workman like manner.

Fees. The fee paid by the City for the initial term and subsequent terms shall be \$0.00. Each party to this agreement shall be responsible for its respective costs incurred during implementation.

Section 8. Execution of this Agreement

Parties to this Agreement shall submit certified documentation of approval by its governing body authorized to execute this Agreement. This Agreement may be executed (by original or facsimile) by the parties in one or more counterparts, each of which shall be considered one and the same agreement.

Section 9. Confidentiality

If NCTCOG is permitted to access certain of the City's confidential information (including software, inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City considers confidential) (Confidential Information) in connection with this Agreement, NCTCOG acknowledges and agrees that the Confidential Information is the valuable property of the City's and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City. NCTCOG (including its employees, subcontractors, agents, or representatives) agrees it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without prior written consent of the City, or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of a court or other governmental authority with proper jurisdiction. In all cases, NCTCOG agrees to promptly notify the City before disclosing Confidential Information to permit the City reasonable time to seek an appropriate protective order. NCTCOG agrees to use protective measures no less stringent than NCTCOG uses in its business to protect its own confidential and proprietary information. In all circumstances, NCTCOG's protective measures must ensure the continued confidentiality of the Confidential Information.

10. Texas Public Information Act

NCTCOG acknowledges that the City is required to comply with Chapter 552 of the Texas Government Code (Public Information Act or Act). Under the Public Information Act, this Agreement, and documents related to this Agreement, which are in the City's possession, or to which the City has access, are presumed to be public and the City may release these records to the public, unless an exception described in the Act applies to a document.

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NCTCOG CERTIFICATE

The undersigned officer of NCTCOG hereby certifies that
_____ [Officer], is the
_____ [Title] and the duly chosen, qualified, and
authorized representative of NCTCOG.

And in such capacity have the authority to execute the LEAP Interlocal Agreement by virtue of official action duly adopted and recorded in the official minutes NCTCOG, in conformity with the laws of the State of Texas.

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The undersigned officer further certifies that all acts, conditions, and things required to exist and to be done precedent to and to render this Interlocal Agreement valid have been properly done and performed and have happened in regular and due time, form, and manner, as required by law; that due provision has been made for the payment of sums due, if any, pursuant to this Interlocal Agreement.

The undersigned officer further certifies that the representations contained in this Certificate remain true and correct on the date of this Certificate.

CITY OF AUSTIN CERTIFICATE

The undersigned officer of the City of Austin, Texas, a Texas municipal corporation, hereby certifies that Marc A. Ott is the City Manager of Austin, Texas and duly chosen, qualified, and authorized representative of the City of Austin, Texas.

And in such capacity has the authority to execute the LEQAP Interlocal Agreement by virtue of official action of the City Council of the City of Austin, Texas, duly adopted and recorded in the official minutes of the governing body of the City of Austin, Texas, in conformity with the laws of the State of Texas.

The undersigned officer further certifies that all acts, conditions, and things required to exist and to be done precedent to and to render this Interlocal Agreement valid have been properly done and performed and have happened in regular and due time, form, and manner, as required by law; that due provision has been made for the payment of sums due, if any, pursuant to this Interlocal Agreement.

The undersigned officer further certifies that the representations contained in this Certificate remain true and correct on the date of this Certificate.

NOTICES

Each individual signing this Agreement on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Agreement states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties.

This Agreement is executed in duplicate originals.

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NCTCOG

By: _____
[name]
[title]

City of Austin

By: _____
Marc A. Ott
City Manager

City of Austin

Approved as to Form:

By: _____
Cary Grace, Assistant City Attorney